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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,439	02/19/2004	Chris Keksi	1353-002/DDH	7771

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EXAMINER

HAYES, BRET C

ART UNIT PAPER NUMBER

3644

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/783,439

Applicant(s)

KEKSI, CHRIS

Examiner

Bret C Hayes

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02/19/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claim 1 is objected to because of the following informalities: line 5, 2<sup>nd</sup> instance of “an opening” should be --the opening--, for clarity. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3 and 11 – 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 3 recites the limitation "said intersecting slots" in line 1 and 2. There is insufficient antecedent basis for this limitation in the claim. Claim 3 erroneously depends upon itself. Examiner understands it to most correctly depend upon claim 2, which first recites “intersecting slots”
5. Regarding claims 11 – 13, the word "means" is preceded by the word(s) "main body", "septum", "removable cap", and "clip" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). In this case, it is noted that the main body “means” is defined as being “for receiving and retaining”, the septum “means” is defined as being “for defining”, the removable cap “means” is

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defined as being “for allowing”, and the clip “means” is defined as being “for removably attaching”. Were these functional descriptors to follow the word “means” throughout the claims, there would be no rejection. However, examiner cautions that those descriptors may not define the invention most advantageously.

6. Claims 14 and 15 recite the limitation "said main body" in lines 2, and 1 and 2, respectively. There is insufficient antecedent basis for this limitation in the claims. Examiner notes that the ‘main body’ has been recited as a means for receiving and retaining.

7. Any unspecified claim is rejected as being dependent upon a rejected base claim.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1 – 3, 6, 8 – 14, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,273,309 B1 to Oppelt.

10. Re – claims 1 – 3, 6 and 8 – 10, Oppelt discloses the invention as claimed including (claim 1) a fishing line receptacle 10 comprising: a main body 12 defining an interior space, said main body 12 having a first closed end, best seen in FIGS. 1 and 3, near the bottom of 12, for example, and a second end, opposite the first end; a flexible membrane 16 covering the second end, the flexible membrane 16 having an opening 22 therethrough to define the opening 22 into the interior space; (claim 2) wherein the opening 22 through the flexible membrane 16 further

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comprises intersecting slots, best seen in FIGS. 1 and 2, for example, cut through said membrane 16; (claim 3) wherein said intersecting slots define an X shaped opening into the interior space, see FIGS. 1 and 2 again, for example; (claim 6) wherein said flexible membrane 16 is removably attached to said second end; (claim 8) including a selectively openable clip 26; (claim 9) wherein said clip 26 is attached to said main body 12; and (claim 10) wherein the opening 22 through the flexible membrane 16 further comprises intersecting slots 22 cut through said membrane 16 to define an X shaped opening into said interior space that is normally closed but which is deformable by applying pressure on said slots 22 to thereby allow the opening 22 to be opened.

11. Re – claims 11 – 14, 16 and 17, Oppelt discloses the claimed invention as applied above.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 4, 5, 7, 15 and 18 – 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oppelt in view of US Patent No. 3,899,100 to Rigaud.

14. Re – claims 4, 15 and 18, Oppelt discloses the invention substantially as claimed, as applied above, except for the first end being defined by a removable cap.

Rigaud teaches removable caps 14 in the same field of endeavor (receiving/containing objects) for the purpose of receiving and containing an object.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Oppelt to include a removable cap at the first end as taught by Rigaud in order to receiving and containing fishing line.

15. Re – claim 5, Oppelt discloses the claimed invention, see rejection of claim 10 above.

16. Re – claim 7, Oppelt in view of Rigaud discloses the claimed invention.

Rigaud teaches snap bands, at col. 2, line 25, in the same field of endeavor for the purpose of retaining the caps 14 on the container.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute an annular groove and clamp for the snap bands as taught by Rigaud, since the equivalence of a groove and clamp and snap bands for their use in the end cap attachment art and the selection of any known equivalents to snap bands would be within the level of ordinary skill in the art.

17. Re – claim 19, Oppelt in view of Rigaud discloses the claimed invention, see rejection of claim 2 above.

18. Re – claim 20, Oppelt in view of Rigaud discloses the invention as claimed.

Rigaud teaches the removable caps 14 including a drain hole, best seen at the center of the device in FIG. 2, for example, in the same field of endeavor for the purpose of allowing air to flow through the container, as set forth at col. 2, line 48.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Oppelt to include the drain hole as taught by Rigaud in order to allow air (a fluid) to flow (drain) therethrough.

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***Conclusion***

Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (703) 306 – 0553. The examiner can normally be reached Monday through Friday from 5:30 am to 3:00 pm, Eastern Standard Time.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu, can be reached at (703) 305 – 7421. The fax number is (703) 872 – 9306.

bh

11/10/04

A handwritten signature in black ink, appearing to read 'Teri P. Luu', with a stylized flourish at the end.

**TERI P. LUU**  
**SUPERVISORY PRIMARY EXAMINER**